

CR-5570-2009(O&M)

[1]

In the High Court of Punjab and Haryana at Chandigarh.

CR-5570-2009(O&M)

Date of Decision:23.02.2016

The State of Punjab and others

...Petitioners

Versus

Chamkaur Singh

...Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Neeraj Yadav, AAG, Punjab.

Mr. G.S. Sandhu, Advocate for
Mr. S.K. Chawla, Advocate,
for the respondent.

SABINA, J.

Petitioner has filed this petition challenging the order dated 13.05.2008 (Annexure P-3).

Learned State counsel has submitted that respondent had filed suit challenging his dismissal from service. The First Appellate Court vide judgment/decreed dated 08.10.1998 had set aside the dismissal order and had given liberty to the State to conduct a fresh inquiry against the respondent. It was further ordered that inquiry was to be concluded within a period of six months and in case the inquiry was not concluded within the said period then

CR-5570-2009(O&M)

[2]

respondent would not be entitled to any consequential benefits concerning his service from the date of the impugned order. Thereafter, inquiry was held against the respondent within the stipulated period and punishment order was passed against the respondent, whereby his five years service was ordered to be forfeited with permanent effect and the alleged absence period was ordered to be treated as non-duty period. Respondent challenged the punishment order dated 01.04.1999 by filing a suit. The suit filed by the respondent was decreed vide judgment/decreed dated 30.05.2005. However, in view of the decree dated 08.10.1998, respondent could not be granted the service benefits which had arisen upto passing of the punishment order dated 01.04.1999.

Learned counsel for the respondent, on the other hand, has submitted that Civil Court while setting aside the punishment order dated 01.04.1999 had held that the respondent would be entitled for all benefits of service i.e. arrears of salary, withheld increments, seniority etc. as if no such impugned order has been passed. Decree dated 30.05.2005 had gained finality as it has not been challenged by the respondent.

In the present case, facts are not in dispute. Respondent was working with the petitioner as a Constable. Respondent was ordered to be dismissed from service.

CR-5570-2009(O&M)

[3]

Respondent preferred a civil suit challenging the order of his dismissal from service. Suit filed by the respondent was decreed and petitioner-State was granted liberty to hold a fresh inquiry against the respondent. Against the judgment/decreed dated 30.01.1996 passed by the Trial Court, State as well as respondent preferred appeals. The Appellate Court vide judgment/decreed dated 08.10.1998 has held as under:-

“For the fore going reasons, civil appeal No.63 of 25.03.1996 filed by the State of Punjab etc. is hereby dismissed by setting aside the dismissal order. However, it would be open to the appellant State of Punjab etc. to conduct fresh regular inquiry against Chamkaur Singh before passing any order of discharge or dismissal against him which should be concluded within a period of six months. If that inquiry stands completed within the above stipulated period then Chamkaur Singh would not be entitled to any consequential benefits concerning his service from the date of the impugned order. This would be subject to the condition that Chamkaur Singh would co-operate with the State of Punjab for the expeditious disposal of the inquiry within the above mentioned period.

CR-5570-2009(O&M)

[4]

In case Chamkaur Singh Co-operates with the Government and inspite of that the fresh inquiry is not completed within the above stipulated period, then Chamkaur Singh shall be deemed to be in service and shall be entitled to all the consequential benefits concerning his service from the date of the impugned order. Consequently Civil appeal No. 52 of 11.3.1996 filed by Chamkaur Singh stands disposed of accordingly. Parties are left to bear their own costs. Decree sheet be prepared. The file be consigned to the record room.”

Thereafter, fresh inquiry was held against the respondent and punishment order dated 01.04.1999 was passed which was upheld in appeal by the Appellate Authority vide order dated 25.11.1999. Respondent filed the present suit challenging the orders dated 01.04.1999 and 25.11.1999. Suit filed by the respondent was decreed by the trial court vide judgment/decreed dated 30.05.2005 and it was held as under:-

“From my findings above, the suit of the plaintiff succeeds and the same is hereby ordered to be decreed and a decree for declaration to the effect that the order of punishment dated 1.4.1999 passed by Senior Superintendent of police Faridkot upheld in appeal by the Deputy Inspector General of Police,

CR-5570-2009(O&M)

[5]

Faridkot Range Faridkot as per his order dated nil endorsed vide No.26421-28/B dated 25.11.1999 affirming the award of punishment of forfeiture of 5 years service of the plaintiff with permanent effect also effecting five annual increments of the plaintiff and considered the alleged absent period as non-duty period and forfeited the pay and perks of the said period; are either passed on no evidence or material or are ill founded on mis-construction and mis-utilisation thereof, are illegal, irregular, unlawful, arbitrary, dictatorial, wanton, discriminatory thus unconstitutional and even ultra vires and an act suffering from vice of perversity and impropriety, ingressing into ones jurisdiction and thus the said orders are liable to be declared null, void, ineffective and inoperative qua the rights of the plaintiff and thus the plaintiff may also be held entitled for all the benefits of service i.e. arrears of salary, withheld increments, seniority etc. as if no such impugned order was passed and also a prayer to award compound interest at the rate of 18% P.A. to the plaintiff on financial benefits accruing on reversal of the impugned orders is ordered to be passed in favour of the plaintiff and against the

CR-5570-2009(O&M)

[6]

defendants with no order as to costs.
Decree sheet be prepared and file be
consigned to the Record Room.”

Admittedly, the State did not challenge the said decree by filing an appeal. Thus, initially respondent was ordered to be dismissed from service and the said order was set aside in a suit filed by the respondent. Thereafter, 5 years service of the respondent was ordered to be forfeited after holding a fresh inquiry against him. The said order was set aside by the Civil Court vide judgment/decreed dated 30.05.2005 and it was held that the respondent would be entitled to all benefit of service i.e. arrears of salary, seniority and withheld increments etc. as if no such impugned order has been passed. The said decree has become final. Therefore, this leads to the inference that the respondent would be entitled to all service benefits i.e. arrears of salary, seniority and withheld increments etc. Hence, there is no force in the arguments raised by learned State counsel. Consequently, this petition is dismissed.

February 23, 2016
kapil

(SABINA)
JUDGE